

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

BELMONT-REDWOOD SHORES
ELEMENTARY SCHOOL DISTRICT,

OAH CASE NO. 2012080014

BELMONT-REDWOOD SHORES
ELEMENTARY SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2012090042

ORDER GRANTING MOTION TO
CONSOLIDATE

On July 31, 2012, Student filed a Request for Due Process Hearing (complaint) against the Belmont-Redwood Shores Elementary School District (District) in Office of Administrative Hearings (OAH) case number 2012080014 (First Case). On September 6, 2012, OAH granted the parties' continuance request for the First Case setting mediation for October 3, 2012, at 10:00 a.m., the prehearing conference (PHC) for October 15, 2012, at 10:00 a.m., and the due process hearing (hearing) for October 22, 2012, and continuing day-to-day Monday through Thursday.

On August 31, 2012, the District filed a complaint against Student, in OAH case number 2012090042 (Second Case). On September 5, 2012, OAH issued a scheduling order for the Second Case, setting mediation for September 19, 2012, the PHC for September 26, 2012, at 1:30 p.m., and the hearing for October 2, 2012, and continuing day-to-day.

On August 31, 2012, the District filed a Motion to Consolidate the First Case with the Second Case. Student did not submit a response.

APPLICABLE LAW AND DISCUSSION

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate

matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

The First Case and Second Case involve a common question of law and fact regarding the appropriateness of the District's May 17, 2012 individualized education program (IEP) offer. While Student's complaint alleges violations regarding the District's implementation of the parties' prior settlement agreement, which purportedly denied Student a free appropriate public education, the central issue in both cases is the adequacy of the District's May 17, 2012 IEP offer. Without consolidation, there would be a danger of inconsistent rulings. Therefore, the District's Motion to Consolidate is granted as consolidation furthers judicial economy prevents inconsistent rulings.

ORDER

1. The District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case number 2012090042 (Second Case) are vacated. The consolidated cases shall proceed on the dates scheduled in OAH Case number 2012080014 (First Case) which are: mediation for October 3, 2012, at 10:00 a.m., the prehearing conference (PHC) for October 15, 2012, at 10:00 a.m., and the hearing for October 22, 2012, and continuing day-to-day Monday through Thursday.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2012080014 (First Case).

Dated: September 12, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings